

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**ROBERTO GUTIERREZ CISNERO,**

**Defendant.**

**8:09CR198**

**ORDER**

This matter is before the Court on the Defendant's Motion captioned "Movant's Motion for Writ Coram Nobis," ECF No. 145.

The Defendant was sentenced on December 28, 2009, to a term of 60 months incarceration, five years of supervised release, and a special assessment of \$100, following his plea of guilty to Count I of the Superseding Indictment. He contends that the \$100 special assessment is unconstitutional because legislation authorizing the assessment originated in the United States Senate rather than the House of Representatives. He also contends that the special assessment results in civil disabilities of sufficient magnitude to justify extraordinary relief.

Based on the return address the Defendant used in conjunction with his filing, and envelope's postmark, it appears he has completed his federal sentence and is now in the custody of the State of Mississippi. It appears that he invoked the writ of coram nobis, referencing *United States v. Morgan*, 346 U.S. 502 (1954), because his federal sentence has been completed and he has no avenue for relief under federal habeas corpus proceedings.

The Court finds no merit to the Defendant's argument that the special assessment imposed in this case is contrary to the United States Constitution, nor his argument that he is experiencing a civil disability that justifies extraordinary relief. The Court also finds no basis for jurisdiction to alter the judgment in this case.

IT IS ORDERED:

1. The Defendant's Motion at ECF No. 145 is denied; and
2. The Clerk will mail a copy of this Order to the Defendant at his last known address.

Dated this 11<sup>th</sup> day of December, 2018.

BY THE COURT:

s/Laurie Smith Camp  
Senior United States District Judge